

**\*\* § 362 INFORMATION COVER SHEET \*\*†**Linda Gae Foster10-53940-gwz

Debtor(s)

Case No:

Motion #:

Bank of America, N.A., Successor by Merger to BAC Home Loans Servicing, LP, FKA Countrywide Home Loans Servicing, LP  
**MOVANT** **Chapter: 13****Certification of Attempt to Resolve the Matter without Court Action:**

Moving counsel hereby certifies that pursuant to the requirements of LR 4001(a)(2), an attempt has been made to resolve the matter without court action, but movant has been unable to do so.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Attorney for Movant

PROPERTY INVOLVED IN THIS MOTION: 7757 Corneta Ct., Sparks, NV 89436

NOTICE SERVED ON: Debtor(s) ☒ ; Debtor (s) Counsel ☒ ; Trustee ☒

DATE OF SERVICE: \_\_\_\_\_

**MOVING PARTY'S CONTENTIONS:**

The EXTENT and PRIORITY of LIENS:\*

1<sup>st</sup> Bank of America, N.A., Successor by Merger to BAC  
Home Loans Servicing, LP, FKA Countrywide Home  
Loans Servicing, LP \$141,811.03 †2<sup>nd</sup> Bank of America \$16,848.383<sup>rd</sup> \_\_\_\_\_

Other \_\_\_\_\_

Total Encumbrances: \$158,659.41

APPRAISAL or OPINION as to VALUE:

Per attached Appraisal Exhibit "C" \$130,000.00

**TERMS OF MOVANT'S CONTRACT**  
**WITH THE DEBTOR:\***

Amount of Note: \$140,000.00

Interest Rate: 6.000%

Duration: 30 Year

Payment Per Month: \$1,085.09

Date of Default: 11/1/2010

Amount of Postpetition Arrearages: \$18,905.63†

Date of Notice of Default: 9/22/2010

**SPECIAL CIRCUMSTANCES: The undersigned hereby certifies that an attempt has been made to confer with debtor(s) counsel, or with debtor(s) and that more than two (2) business days have expired, and that after sincere effort to do so, counsel has been unable to resolve this matter without court action.**

SUBMITTED BY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

**DEBTOR'S CONTENTIONS:**

The EXTENT and PRIORITY of LIENS:

1<sup>st</sup> \_\_\_\_\_2<sup>nd</sup> \_\_\_\_\_3<sup>rd</sup> \_\_\_\_\_4<sup>th</sup> \_\_\_\_\_

Other: \_\_\_\_\_

Total Encumbrances: \$ \_\_\_\_\_

APPRAISAL or OPINION as to VALUE:

**DEBTOR'S OFFER OF "ADEQUATE**  
**PROTECTION" FOR MOVANT:****SPECIAL CIRCUMSTANCES:**

SUBMITTED BY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

\* All amounts due to Movant as of March 16, 2012

† The amount of Movant's liens and arrears above do not include \$826.00 for fees and costs that have also been incurred by Movant as of the date hereof in connection with seeking the relief requested in the Motion.

**TIFFANY & BOSCO, P.A.**

Gregory L. Wilde, Esq.

Nevada Bar No. 004417

212 South Jones Boulevard

Las Vegas, Nevada 89107

Telephone: 702 258-8200

Fax: 702 258-8787

Attorney for Movant Bank of America, N.A., Successor by Merger to BAC Home Loans Servicing, LP,  
FKA Countrywide Home Loans Servicing, LP

12-71350

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In Re:

**Linda Gae Foster**

Debtor.

Bk Case No.: 10-53940-gwz

Date: 5-8-12

Time: 10:00am

Chapter 13

**MOTION FOR RELIEF FROM AUTOMATIC STAY**

**(REAL PROPERTY)**

Bank of America, N.A., Successor by Merger to BAC Home Loans Servicing, LP, FKA Countrywide Home Loans Servicing, LP, ("Movant") hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay with respect to certain real property of the Debtor(s) having an address of 7757 Corneta Ct., Sparks, NV 89436 (the "Property"). In further support of this Motion, Movant respectfully states:

1. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtor(s) on September 30, 2010.

2. Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, LP, is servicing agent for Movant.

3. A foreclosure notice of default was recorded on September 22, 2010.

4. A Chapter 13 Plan was confirmed on December 28, 2010.

5. The Debtor(s) has/have executed and delivered that certain promissory note in the original principal amount of \$140,000.00 (the "Note"). A true and correct copy of the Note is attached hereto as Exhibit "A". Movant is an entity entitled to enforce the Note.

6. Pursuant to that certain Deed of Trust (the "Deed of Trust"), all obligations (collectively, the "Obligations") of the Debtor(s) under the Note and the Deed of Trust with respect to the Loan are secured by the Property. A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B".

7. As of March 16, 2012, the outstanding Obligations are:

Unpaid Principal Balance	\$124,423.97
Unpaid, Accrued Interest	\$12,748.36
Costs	\$5,283.42
<u>Less:</u> Partial Payments	(\$-644.72)
Minimum Outstanding Obligations	\$141,811.03

8. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$650.00 in legal fees and \$176.00 in costs. Movant reserves all rights to seek an award or allowance of such fees and costs in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

9. The following chart sets forth the number and amount of post petition payments due pursuant to the terms of the Note that have been missed by the Debtor(s):

Number of Missed Payments	From	To	Monthly Payment Amount	Total Missed Payments
15	11/1/2010	1/1/2012	\$1,149.03	\$17,235.45
2	2/1/2012	3/1/2012	\$1,085.09	\$2,170.18
Less postpetition partial payments:				(\$-500.00)

**Total: \$18,905.63**

1           10.     As of March 16, 2012, the total postpetition arrearage/delinquency is \$18,905.63,  
2 consisting of (i) the foregoing total of missed postpetition payments in the amount of \$18,905.63, plus  
3 (ii) the following postpetition fees and advances for taxes and insurance:  
4

5           11.

Description	Amount
Fees	\$0.00
Post Petition Taxes and Insurance	\$0.00

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9           12.     The fair market value of the Property is \$130,000.00. The basis for such valuation is the  
10 appraisal attached hereto as Exhibit "C".

11           13.     Upon information and belief, the aggregate amount of encumbrances on the Property  
12 listed in the Schedules or otherwise known, including but not limited to the encumbrances granted to  
13 Movant, is \$158,659.41.

14           14.     Cause exists for relief from the automatic stay for the following reasons:

15               (a)     Movant's interest in the Property is not adequately protected.

16               (b)     The fair market value of the Property is declining and payments are not being  
17 made to Movant sufficient to protect Movant's interest against that decline.

18               (c)     Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtor(s) has/have no equity in the  
19 Property; and pursuant to § 362(d)(2)(B), the Property is not necessary for an effective  
20 reorganization.  
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1 WHEREFORE, Movant prays that this Court issue an Order terminating or modifying  
2 the stay and granting the following:

3 1. Relief from the stay allowing Movant (and any successors or assigns) to proceed under  
4 applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the  
5 Property.

6 2. That the Order be binding and effective despite any conversion of this bankruptcy case  
7 to a case under any other chapter of Title 11 of the United States Code.

8 3. That the 14-day stay described by Bankruptcy Rule 4001(a) (3) be waived.

9 4. For such other relief as the Court deems proper.

10 DATED this 30th day of March, 2012.

11  
12 **TIFFANY & BOSCO, P.A.**

13 By:  Gregory L. Wilde, Esq

14 **GREGORY L. WILDE, ESQ.**

15 Attorney for Movant

16 212 South Jones Boulevard

17 Las Vegas, Nevada 89107

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